



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/737,528      | 12/13/2000  | Paul F. Austin       | 5150-50900          | 9832             |

7590

03/18/2004

Jeffrey C. Hood  
Meyertons, Hood, Kivlin, Kowert & Goetzel PC  
P.O. Box 398  
Austin, TX 78767-0398

EXAMINER

BASOM, BLAINE T

ART UNIT

PAPER NUMBER

2173

DATE MAILED: 03/18/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

# Advisory Action

Application No.

09/737,528

Applicant(s)

AUSTIN, PAUL F.

Examiner

Blaine Basom

Art Unit

2173

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

## PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1,4-16,19-24 and 27-34.

Claim(s) withdrawn from consideration: 2,3,17,18,25 and 26.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

JOHN CABECA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 210

Continuation of 5. does NOT place the application in condition for allowance because: The Examiner maintains that the program described by Risberg is, in fact, a "graphical program." The Applicant attempts to associate the graphical program recited in claim 1 with "graphical programming," as apposed to "text-based programming." However, claim 1 does not express that the graphical program is associated with graphical programming, as apposed to text-based programming. Regardless, the Examiner believes that the combination of Risberg and Kodosky, as described in the previous Office Action, presents a graphical program which is associated with graphical programming. The Examiner further maintains that it would have been obvious to combine Risberg with Kodosky, since Kodosky teaches suplimenting script-based programs, like those of Risberg, with graph-based programs. The Applicant attempts to differentiate the teachings of Risberg and Kodosky to the point that they are seen as non-combinable, stating that nowhere does Risberg teach a block diagram as taught by Kodosky, nor does Kodosky teach an active document like that of Risberg, and that combining Risberg and Kodosky would result in a system that in includes both a graphical program and an active document. In response, the Examiner notes that Kodosky teaches a block diagram in conjunction with "front panels," which are analagous to the active document described by Risberg. The Examiner thus asserts that Kodosky complements the teaching of Risberg, and that one one would have been motivated to combine Kodosky with Risberg, and that such a combination would read on the limitations presented in claim 1 and the like. Furthermore, since Risberg teaches associating graphical program elements with data sources, and since Kodosky teaches using such graphical elements in block diagrams, the Examiner maintains that this combination of Risberg and Kodosky teaches specifying a data source for graphical programs, and automatically configuring graphical programs to receive data from the specified data source. Because of these arguments, the Examiner maintains that it would have been obvious to combine Risberg, Office 97, and Kodosky as expressed in the previous Office Action, and that this combination would read on the limitations expressed in claim 16 .